

# **LABORERS NATIONAL PENSION FUND**

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January 18, 2018

U.S. Department of Labor  
Employee Benefits Security Administration  
Public Disclosure Room, N-1513  
200 Constitution Ave., NW.  
Washington, DC 20210

Via E-Mail & USPS

Email: [criticalstatusnotice@dol.gov](mailto:criticalstatusnotice@dol.gov)

Greetings:

Enclosed is a copy of this Pension Fund's Notice of Funding Zone Status for 2017 (Early Critical Zone) that was mailed to the Fund's participants, beneficiaries in pay status, contributing employers, and participating unions in April 2017. A copy of the Notice was sent to the Pension Benefit Guaranty Corporation in May 2017.

Inadvertently, a copy of the Notice was not sent to the Labor Department. This oversight was recently discovered. I am sending the enclosed copy to correct the situation.

We apologize and ask that no action be taken, particularly in light of the fact that the Notice was distributed, that a copy was sent to the PBGC, and that the Fund is making this voluntary correction.

Respectfully,



Lu Beth Greene  
Fund Administrator

Encl.: Notice

2018 JAN 25 AM 11:32  
PSA/PUBLIC DISCLOSURE

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### NOTICE OF FUNDING ZONE STATUS FOR 2017 (Early Critical Zone)

#### **To All Participants, Beneficiaries in Pay Status, Participating Unions, and Contributing Employers:**

The Pension Protection Act of 2006 (PPA) amended federal pension laws to set tougher funding standards for multiemployer pension funds like the Laborers National Pension Fund (the "Fund"). The Fund is required by the PPA to send you this Notice that the Fund's actuary has submitted to the U.S. Department of the Treasury an annual certification of the Fund's PPA funding zone status. This Notice is also intended to inform you that the Fund has elected "Early Critical (Red) Zone" status for 2017.

The Fund's actuary certified that the Fund would be in the Endangered (Yellow) Zone, because its funding percentage is 76.4%. The actuary also certified that the Fund is eligible under the Multiemployer Pension Reform Act of 2014 to voluntarily choose to enter Early Critical (Red) Zone status. This choice is available because the Fund is projected to be in the Red Zone within five years unless action is taken to improve funding.

The Board of Trustees, with professional advice and after careful deliberation, decided to exercise this choice to put the Fund into Early Red Zone status for 2017. The Board did so because this status gives the Fund access to more legal tools to restore the Fund's long history of financial soundness. With these tools, the Fund can more quickly and fairly return to the Green Zone status that it has long held.

#### Funding Rehabilitation Plan

The PPA requires the Board of Trustees to develop a so-called Rehabilitation Plan ("Plan") designed to restore the Fund's financial health over the next 10 to 12 years. The Plan must be adopted by the Board by no later than November 26, 2017. The Board intends to act more quickly than required, but to do so with great care taking into account all relevant considerations including the effects on collective bargaining, participants and contributing employers. The Board is mindful that the success of the Plan, and of the Fund, depends on maintaining and expanding the contribution base.

In general, the parties to each collective bargaining agreement will be required to make or negotiate changes in the employers' contribution obligations to implement the Plan. The Plan will include at least one "default schedule", and may include one or more "alternative schedules", that the bargaining parties can adopt to implement the Plan. The bargaining parties can wait until negotiations on new collective bargaining agreement to agree on a schedule, or they can re-open their current agreement to incorporate a schedule. The law provides for imposition of a default schedule after the current agreement expires if the parties are unable to agree.

The Board of Trustees will be required by law to annually assess the progress of the Plan in improving the Fund's financial health and whether the Fund is on track to emerge from Red Zone status within the permitted rehabilitation period. Adjustments to the Plan may be necessary or appropriate over time depending on investment performance and other developments, but the Board's intention is to design a Plan that minimizes the chances of changes in the future.

Once the Plan is developed, a copy of the Plan (including the schedules) will be distributed to all contributing employers and participating LIUNA affiliates.

#### Possible Changes in "Adjustable Benefits"

Under the law, a rehabilitation plan could include contribution rate requirements and revisions to the Fund's benefit schedule for future accruals, as well as reductions in, or elimination of, so-called "adjustable benefits" and future accruals. If reductions in adjustable benefits will be included in the Plan, a separate notice explaining those reductions will be sent to any and all affected participants. No change in adjustable benefits will reduce any participant's accrued benefit payable at normal retirement age. Further, no reduction in adjustable benefits will be applied to any pensioner or beneficiary whose benefits began (benefit commencement date) before April 30, 2017 or such later date as the Board of Trustees may set.

The "adjustable benefits" currently offered by the Fund are:

- 60-month benefit guarantees
- Disability Pension (if not in pay status)
- Early Retirement Pension and similar retirement-type subsidies
- Early Regular Pension (age 55 with 30 years of service)
- Widow-Widowers Pension (immediate payment subsidy)
- Various pension benefit payment options (except for the 50% Husband and Wife Pension)

Whether these adjustable benefits will be changed or eliminated under the Plan is not yet known.

#### Lump Sum Payment Restrictions

Effective April 30, 2017 and until the Pension Fund emerges from red zone status, the Pension Fund is not permitted by the PPA to pay any lump sum benefits or pay any other benefit in excess of the monthly amount that would be payable to the pensioner under a single life annuity. This means that the Fund must suspend its Social Security level income option, and widow/widower lump sum option. Exceptions are made for a lump sum cash-out of a participant or beneficiary whose entire benefit entitlement has an actuarial value that does not exceed \$5,000.

#### Temporary Contribution Surcharge

The PPA requires a pension fund in Red Zone status to automatically assess a 5% surcharge on employer contributions payments due during the initial year of that status, and increase the surcharge amount to 10% thereafter. This PPA surcharge remains in effect with respect to any particular contributing employer until the employer agrees to a schedule under the rehabilitation

plan. The law's intent is to provide employers with an economic incentive to quickly agree to a rehabilitation plan schedule.

The automatic PPA surcharge can be minimized or avoided if an employer and its union bargaining partner agree early on a Plan schedule.

Unless advised otherwise by the Fund, each employer is required to pay the automatic PPA surcharge as follows: a 5% surcharge will be assessed on employer contributions due for work performed (or compensation paid) during the period July 1, 2017 through December 31, 2017. Effective January 1, 2018, the PPA surcharge rate will be increased to 10%. The PPA surcharge will not be assessed on contributions due for work performed (or compensation paid) after the employer agrees to a Plan schedule.

The PPA surcharge is based on the total amount of contributions owed to the Fund for a month, and is payable at the same time as the employer's regular monthly contributions. The Fund will not issue a billing to employers for the surcharge. Rather, all employers should take this Notice as notification of this new legal obligation.

For example: Assume a contributing employer owes contributions totaling \$10,000 for work performed (or compensation paid) in July 2017. The contribution payment and report are due by August 20, 2017 under the Fund's rules. In addition to the \$10,000, the employer must include in its July 20th contribution payment a surcharge of \$500 for a total payment of \$10,500.

Non-payment of the surcharge by an employer is treated as a violation of federal law and as a delinquent contribution that is subject to interest charges and the Fund's contribution collection rules.

#### Contribution Rate Reductions Prohibited

The PPA prohibits the Fund from accepting collective bargaining agreements or participation agreements that provide for (a) a reduction in the contribution rate in effect under previous agreements, (b) a suspension of contributions for any period, or (c) any new exclusion of younger or newly hired employees from Fund coverage. Congress considered such changes to be detrimental to a multiemployer pension plan's funding improvement program.

#### More Information Needed?

For more information about this Notice, you may write Fund Administrator Lu Beth Greene at Laborers National Pension Fund, P.O. Box 803415, Dallas, Texas 75380-3415, or telephone her at (972) 233-4458.

The business hours of the Fund's administrative office are 8:00 A.M. to 4:30 P.M. (Central Time), Monday through Friday. You will have a right to obtain a copy of the Rehabilitation Plan from the Fund's office after it is adopted by the Board of Trustees.

cc U.S. Department of Labor  
Pension Benefit Guaranty Corporation